D.P.U. 94-1A

Application of Boston Edison Company:

(1) under the provisions of G.L. c. 164, § 94G, as amended by St. 1981, c. 375, and the Company's tariff, M.D.P.U. 592-A, for approval by the Department of Public Utilities of a change in the quarterly fuel charge to be billed to the Company's customers pursuant to meter readings in the billing months of February, March and April 1994; and

(2) for approval by the Department of rates to be paid to Qualifying Facilities for purchases of power pursuant to 220 C.M.R. §§ 8.00 et seq. and M.D.P.U. 545-A. The rules established in 220 C.M.R. §§ 8.00 et seq. set forth the filings to be made by utilities with the Department, and implement the intent of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978; and

(3) under the provisions of G.L. c. 164, § 94G, for review by the Department of the performance of the Company's generating units for the period of November 1, 1992 through October 31, 1993.

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I. INTRODUCTION

On January 5, 1994, pursuant to G.L. c. 164, § 94G and 220 C.M.R. §§ 8.00 et seq., Boston Edison Company ("BECo" or the "Company") notified the Department of Public Utilities ("Department") of the Company's intent to file a change to its fuel charge in conformance with its tariff, M.D.P.U. 592-A, and to its Qualifying Facility ("QF") power purchase rates in conformance with its tariff, M.D.P.U. 545-A. The Company requested that both these changes be effective for bills issued pursuant to meter readings in the billing months of February, March, and April 1994. In addition, on January 20, 1994, the Company filed its actual performance results relating to fuel procurement and use for the twelve-month period November 1, 1992 through October 31, 1993. Pursuant to G.L. c. 164, § 94G, the proceeding was continued in order to investigate performance variances from the goals established for the Company's generating units for the twelve-month period November 1, 1992 through October 31, 1993. These matters were docketed as D.P.U. 94-1A.

Pursuant to notice duly issued, a public hearing on the Company's application was held on January 27, 1994, at the Department's offices in Boston. The Attorney General of the Commonwealth ("Attorney General") intervened pursuant to G.L. c. 12, § 11E. At the hearing, the Company provided return of service certifying that public notice of the hearing was made in accordance with Department regulations.

At the hearing, the Department addressed a legal issue that remained unresolved from the Company's prior fuel charge proceeding, D.P.U. 93-1D. In its fuel charge and performance calculations for November and December 1993 and January 1994, the Company

proposed an adjustment treating the Massachusetts Bay Transportation Authority ("MBTA") as a wholesale customer rather than a retail customer pursuant to a contract accepted for filing by the Federal Energy Regulatory Commission ("FERC"). Boston Edison Company, D.P.U. 93-1D at 1-2 (1993). In that case, the Company submitted a revised filing treating the MBTA as a retail customer pending further investigation of the customer status of the MBTA. The Department stated that it expected to issue an additional Order concerning that matter prior to the Company's first billing cycle in the month of December 1993. Id.

On November 8, 1993, as part of its investigation in D.P.U. 93-1D, the Department issued four supplemental record requests to the Company regarding the customer status of the MBTA. Responses to these requests were due on November 10, 1993. By letter dated December 1, 1993, the Company advised the Department that the Company's responses to the record requests would not be available before December 6, 1993. The Department received the responses to the record requests on January 14, 1994.

On January 21, 1993, the Department sent a letter to the Company, and copied the Attorney General, notifying them that the Department intended to address the issue of the customer status of the MBTA in D.P.U. 94-1A. The Department requested that the Company make an attorney available to answer additional legal questions concerning this issue.

At the hearing, the Company presented five witnesses: Wayne R. Frigard, Assistant General Counsel of Boston Edison Company; Kenneth M. Barna, Esq. from the law firm Rubin and Rudman; Rose Ann Pelletier, fuel rate and unit performance administrator in the fossil fuel planning, procurement, regulation, and performance group; Anne M. Lynch, fuel

rate analyst in the fossil fuel planning, procurement, regulation, and performance group; and William A. Midi, unit performance analyst in the fuel and power contracts department. The Company offered documentation of its fuel charge and performance adjustment calculations in Exhibits BE-1 through BE-10. The Company also offered further argument on the issue of the customer status of the MBTA in Exhibit BE-11. The evidentiary record also includes the Company's responses to fifteen record requests as exhibits.

BECo is a public utility engaged principally in the generation, purchase, transmission, distribution, and sale of electricity. The Company supplies retail electric service to an area of approximately 590 square miles encompassing the City of Boston and 39 surrounding cities and towns. BECo serves about 560,000 residential customers, 90,000 commercial customers and 1,700 industrial customers. BECo also supplies wholesale electricity to other utilities and municipal electric departments.

The Company's last rate increase occurred in October of 1992 as a result of the Department's approval of a settlement agreement ("1992 Settlement") in Boston Edison Company, D.P.U. 92-92 (1992). The Company's previous rate increase before D.P.U. 92-92 occurred in October 1989 as a result of the Department's approval of a settlement agreement ("1989 Settlement") in Boston Edison Company, D.P.U. 88-28/88-48/89-100 (1989).

II. FUEL CHARGE

On January 20, 1994, the Company, pursuant to G.L. c. 164, § 94G(b), filed with the Department its proposed changes to its fuel charge and QF power purchase rates for the billing months of February, March, and April 1994. The Company's fuel charge is

composed of a fuel cost component and a New Performance Adjustment Charge ("NPAC") levied in accordance with the 1989 Settlement and a Fossil Generation Performance Adjustment Charge ("FGAC") levied in accordance with the 1992 Settlement. On January 27, 1994, the Company submitted a revised calculation of the proposed fuel charge, which incorporated a $1 million preliminary replacement power expense refund and a reduction in the purchased power capacity expense for the New England Power Company's ("NEP") Bear Swamp unit entitlement (Exh. BE-2, Revision 1; Tr. at 97-98).[1]

A. MBTA ADJUSTMENT

As stated, above, the Company has proposed an adjustment in its fuel charge and performance calculations to treat the MBTA as a wholesale customer.[2] This proposal is the result of an All-Requirements Service Agreement ("Agreement") executed by the Company and the MBTA on March 17, 1993, to be effective February 1, 1993 (Exh. RR-3, at 1).[3]

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[1] According to the Company, for the period November 1, 1993 through October 31, 1995, BECo agreed to purchase from NEP a portion of the capacity from NEP's Bear Swamp 1 and 2, pumped storage units for $15 per kilowatt-year ("KW-yr") through October 31, 1994 and $0 per KW-yr thereafter. NEP will receive from BECo a portion of the capacity from Mystic 7 and from Pilgrim for $0/KW-yr (Exh. BE-1, at 6-7). The Company claims that the contract permits each party to adjust its generation mix to more closely match its load and expects energy savings of $30,000 (id. at 7; Tr. at 107).

[2] The Company first introduced this proposal to the Department in its July 1993 filing of a fuel charge adjustment by explaining the method by which the Company intended to treat the effects of a contract pending before FERC. Since the contract was not yet approved by FERC, the Company had not requested a corresponding adjustment, and thus the Department did not take any action on the Company's proposal in the August fuel charge Order, D.P.U. 93-1C.

[3] The Agreement excludes from the definition of all requirements service any service at a delivery point at which the monthly peak demand is less than 10 KW and the annual energy is less than 60,000 kWh.

Pursuant to the Agreement, the MBTA pays only the fuel cost component of the fuel charge and no longer pays the capacity and transmission cost components of the fuel charge. The Company proposes that the remaining retail customers continue to pay fuel costs plus share all capacity and transmission costs, including those associated with producing power sold to the MBTA. Although the Federal Energy Regulatory Commission ("FERC") accepted it on August 24, 1993, the Agreement became effective February 1, 1993. Because of this timing difference, the Company cancelled the MBTA's February to August bill of $11.6 million as a retail customer and rebilled the MBTA as a wholesale customer during that period at $8.5 million (Exh. RR-5, at 5). The Company proposed, in the October fuel charge filing, an adjustment of $1.9 million[4] to reflect the change in revenues from February through August for which the remaining retail customers would be responsible. The Department did not allow inclusion of those costs into the fuel charge in D.P.U. 93-1D, pending further investigation of the matter. Therefore, the proposed adjustment in the instant proceeding is $2.72 million (Exh. BE-3, at 1, 13).[5]

In May, 1991, the Legislature enacted G.L. c. 161A, § 32 which expressly authorized the MBTA to engage in the electric utility business, which includes the generation, transformation, transmission, and distribution of electricity used in comection with the mass

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[4] This figure is derived by combining the fuel charge reassignment of $1,246,428 and the performance charge reassignment of $625,630 to the remaining retail customers (Exh. RR-5, at 4).

[5] This figure is derived by combining the fuel charge reassignment of $1,741,496 and the performance adjustment charge reassignment of $972,609 to cover the period between February 1, 1993 and December 31, 1993.

movement of people. Following the enactment of G.L. c. 161A, § 32, the MBTA issued a Request for Proposals ("RFP") to serve its entire 93 MW load (Exh. RR-3, at 3).[6] As a result of a competitive bidding process, the MBTA selected the Company as the successful bidder, the parties negotiated the Agreement, and executed the Agreement with the Company. The Company filed the Agreement with FERC on June 25, 1993. No parties intervened and FERC accepted the Agreement for filing on August 24, 1993.

The Department inquired as to the Company's rationale for filing the Agreement with FERC rather than with the Department pursuant to G.L. c. 164, § 94 (Tr. at 16). The Federal Power Act, 16 U.S.C. §824, confers upon FERC jurisdiction over any "sale of electric energy at wholesale in interstate commerce," and defines wholesale as a sale "to any person for resale." 16 U.S.C. §§ 824(b), 824(d). The statute that gives the MBTA the power to engage in the electric utility business also provides "that nothing in this section shall be construed to authorize resale of electric power and energy so purchased except as otherwise authorized by law." G.L. c. 161A, § 32(b).

The Company asserted that it decided to file the Agreement with FERC based on (1) information that a significant portion of the MBTA's purchases from the Company constituted resale sales; (2) the MBTA's utility status as conferred by G.L. c. 161A, § 32; and (3) the principles set forth in City of Oakland v. FERC, 754 F.2d 1378 (9th Cir. 1985) (Exh. RR-3, at 5). The Company stated that after it had executed the Agreement and began

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[6] At the time of the issuance of the RFP, approximately 67 MW of the MBTA's load was served by the Company (Exh. RR-3, at 3). The remainder was served by Massachusetts Electric Company, Braintree Electric Light Department and Cambridge Electric Light Company (id.).

its analysis of where to file the Agreement, it discovered that the MBTA was reselling the electricity purchased from the Company to concessionaires and other entities located at the MBTA's service locations and was separately metering a portion of those sales (Tr. at 18-19). The Company stated that the "resale was a significant aspect of our decision as to where this contract should be filed for approval" since FERC has jurisdiction over sales for resale (Tr. at 12, 86).

The Company also explains that the Agreement is properly before FERC because the MBTA is reselling electricity and is authorized to do so. The Company maintains that G.L. c. 161A, § 32 did not expand or diminish the MBTA's pre-existing rights (Exh. BE-11, at 5, Tr. at 70). The Company states that the MBTA is otherwise authorized by law to resell electricity by virtue of the MBTA's acquisition of franchise rights possessed by its predecessor railway companies and by the MBTA's status as an agency for which broad general powers and standards are appropriate (Exhs. BE-11, at 4; RR-8, at 9; Tr. at 70).

The Company states that the MBTA's franchise rights include the franchise rights of all its predecessor companies (Exh. RR-8, at 14). As set forth in St. 1964, Chapter 563, Section 20:

> "The Metropolitan Transit Authority is hereby abolished; all mass transportation facilities, as defined in section one of chapter one hundred and sixty-one A of the General Laws, inserted by section eighteen of this act, and all property, real and personal, owned, controlled by or in the custody of the Metropolitan Transit Authority is hereby transferred to the ownership, control and custody of the Massachusetts Bay Transportation Authority ..."

The definition of "mass transportation facilities" in G.L. c. 161A, § 1, specifically includes "all easements, air rights, licenses, permits and franchises, used in connection with the mass

movement of persons." G.L. c. 161A, § 1.

The Company maintains that, "[b]y statute, the MBTA has a duty to develop and operate the mass transportation facilities `in order to promote the general economic and social well-being of the commonwealth'" (Exh. RR-8, at 18, citing G.L. c. 161A, § 5(a)). In addition, the Company notes the MBTA has "such other powers ... as may be necessary for or incident to" carrying out any of the enumerated powers or accomplishing the purposes of the statute (id., citing G.L. c. 161A, § 3(q)). The Company further notes that the MBTA is "that kind of agency of the sovereign for which broad general powers and standards are appropriate." MBTA v. Boston Safe Deposit and Trust Company, 348 Mass. 538, 542 (1965) ("MBTA"). The Company asserts that the MBTA has powers that can reasonably be implied from the statutory provisions, the structure of the agency, and its declared public purpose, citing MBTA at 545.

The Company posits that the MBTA's acquisition of the franchise rights from predecessor companies taken in conjunction with its broad statutory powers gives the MBTA the authority to resell electricity (Exh. RR-8, at 19-20). The Company states that a critical part of the MBTA's mission is to encourage ridership on its system (id.). The various shops, restaurants, service providers and commercial entities operating within the MBTA's stations and terminals provide important support services and amenities to MBTA commuters (Exh. RR-8, at 20). According to the Company, providing services to those customers who travel on the MBTA system is in fact connected with providing services for mass transportation (Tr. at 34).

In City of Oakland v. FERC, 754 F.2d 1378 (9th Cir. 1985), the Court examined whether the purchases of a municipality, which maintained an electrical distribution system to resell the electricity to approximately 100 airport businesses, 69 percent of which were separately metered, were at wholesale and subject to FERC jurisdiction. The Court held that when a municipality maintains an extensive system for transferring and metering interstate electricity its purchases are at wholesale and subject to FERC jurisdiction. Id. at 1380. The Court also stated that the plain meaning of resale seems to encompass at least the transactions with individually metered tenants. Id. at 1379. The Court did not pass on the question of whether FERC is without jurisdiction over the percentage of electricity used by the airport tenants without individual meters. However, upon remand, FERC held that even though not all of the sales to the airport were made for resale, the entire transaction was a jurisdictional sale as power is commingled at the point of interconnection between the utility and the purchaser. Pacific Gas and Electric, Docket No. ER85-738-000, 33 FERC at 61,085 (October 30, 1985).

The Company draws an analogy between the transactions involved in City of Oakland and those with the MBTA. The Company argues the MBTA is a political subdivision which maintains its own electrical distribution system (Exh. RR-8, at 9, 20). The Company states that the MBTA resells electricity purchased from the Company to separately metered tenants at the MBTA's service locations (Exh. RR-8, at 7). The Company states that 80 percent of the power the MBTA receives from the Company is converted to Direct Current and used as traction power (Exh. RR-3, at 4-5). The Company indicates that the balance is consumed as Alternating Current and employed for other purposes such as lighting, escalators and

communications (id.). The Company further states that 20 percent of the non-traction power, or 3.92 percent, is sold for resale by the MBTA (id. at Att. 4). The Company argues that all of the power, inclusive of that used for traction, sold to the MBTA is commingled at the power supply level (id. at 4-5). Thus, according to the Company, the resales by the MBTA to individually metered customers constitute resales for FERC jurisdictional purposes (id. at 5).

The Department accepts the Company's rationale for filing the Agreement with FERC as appropriate. Clearly, FERC has jurisdiction over sales of electricity at wholesale in interstate commerce. 16 U.S.C. § 824(b). The MBTA is purchasing electricity at wholesale as authorized by G.L. c. 161A, §32 and reselling to individually metered customers at its service locations. The MBTA's authority to resell is found in its broad statutory powers and inherited franchise rights to provide electricity to entities at its service locations in comection with the mass movement of persons. Since the Company's sales to the MBTA are at wholesale for resale, FERC has jurisdiction to set the rates of that wholesale transaction.

However, the Department intends to address this sudden change in revenue flow as a rate structure matter to be investigated in the context of the Company's next base rate proceeding.[7,8] In that proceeding, the Company may request recovery of the capacity costs

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[7] See, Trustees of Clark University v. Department of Public Utilities, 372 Mass. 331, 336 (1977) ("question of rate structure was one which better could be dealt with in a full rate adjustment proceeding or in some proceeding having a broader scope than one designed to provide a temporary adjustment in response to a change in the company's cost of purchased power").

[8] This course of action is supported by Commonwealth Electric Company v. Department

(continued...)

that are allocated to the retail ratepayers as a result of the MBTA being treated as a wholesale customer.

B. FUEL COST COMPONENT

The Company proposed a fuel cost component of $0.02740 per kilowatthour ("KWH"), a decrease of $0.00281 per KWH from the fuel cost component presently in effect (Exh. BE-2, at 1, Revision 1). The Company also proposed a total fuel charge of $0.03170 per KWH, a decrease of $0.00149 from the total fuel charge presently in effect (id.).

The Company stated that the decrease in the proposed fuel adjustment charge is due to (1) an increase in the cumulative overrecovery position; (2) a decrease in system energy expenses; and (3) the forecast of higher retail sales while forecasting lower output requirements (Exh. BE-1, at 4-5).

The Company stated that it forecasts an $8.6 million cumulative overrecovery balance entering the February through April 1994 quarter, compared to a forecast $1.0 million overrecovery entering the November 1993 through January 1994 quarter (id. at 4). The Company explained that the increase in the cumulative overrecovery position entering the forecast quarter is due to lower than forecast fuel costs (id. at 6; Tr. at 102-103). The overrecovery is partially offset by the FERC's revocation of a prior refund decision which resulted in Central Maine Power invoicing the Company $2.0 million (Exh. BE-1, at 6).

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[8](...continued)
of Public Utilities, 397 Mass. 361 (1986), cert. denied 481 U.S. 1036 (1987). See also, Gulf States Utilities v. Public Utility Commission of Texas, 841 S.W.2d 459 (Tex.App.-Austin 1992); Pennsylvania Power Company v. Pennsylvania Public Utility Commission, 561 A.2d 43 (1989); Pike County Light and Power Company v. Pennsylvania Public Utility Commission, 465 A.2d 735 (1983).

The Company also stated that it is forecasting lower average fuel prices for the February through April quarter compared to the prior quarter, which results in a $0.6 million decrease in system fuel expenses (id. at 5). The decrease in the proposed fuel charge is partially offset by a forecasted increase in capacity charges this quarter over last, associated with a full three months of the MASSPOWER purchase power contract and payments associated with NEP's Bear Swamp unit entitlement (id.). The Company is forecasting similar generation requirements and higher sales for this quarter when compared to the prior quarter (id.).

The Company also included for the months of January, February and March 1994 approximately $70,810 associated with a power purchase agreement with the MBTA Jet 2 (Exh. BE-2, Revision 1, Sch. 13). This agreement is currently being investigated by the Department in D.P.U. 93-164.

On January 25, 1994, the Department issued its decision in Boston Edison Company, D.P.U. 93-1A-A (1994) ("D.P.U. 93-1A-A"), the Department's performance review of the Company's generating facilities for the performance year November 1991 to October 31, 1992. In D.P.U. 93-1A-A at 26-27, the Department ordered a number of disallowances for replacement power costs attributed to a portion of an unplanned outage at Pilgrim Nuclear Power Station ("Pilgrim") and to a delay of a major overhaul at Mystic 4. The Department ordered the Company to refund to its customers expenditures for replacement power made during the performance year. Id. The Company stated that although it has not made the calculation, it anticipates the amount to be at least $1.0 million (Tr. at 97). The Company proposes to return a preliminary amount of $1.0 million associated with the replacement

power expense disallowed in D.P.U. 93-1A-A to its customers through its fuel charge (Exh. BE-2, at 2, Revision 1; Tr. at 97).

The Department finds that since no Order in D.P.U. 93-164 has been issued, the costs associated with the MBTA Jet 2 contract shall be excluded from the calculation of the fuel charge. Pursuant to our finding in Section A, above, the new fuel cost component is $0.02643 per KWH. Accordingly, the appropriate total fuel charge is $0.03050.

C. NEW PERFORMANCE ADJUSTMENT CHARGE

In accordance with the terms of the 1989 Settlement, a Performance Adjustment Charge ("PAC") went into effect for the three-year period beginning November 1, 1989. See BECo Tariff M.D.P.U. 783. The 1989 Settlement further provided that beginning November 1, 1992, an NPAC would take the place of the PAC (1989 Settlement at 8). See, BECo's Tariff M.D.P.U. 784. The NPAC will remain in effect until October 31, 2000 (1989 Settlement at 11). In D.P.U. 93-1D at 10, the Department approved an NPAC of $0.00398 for the billing months of November and December, 1993 and January 1993. The Company proposed an NPAC for February, March, and April 1994, of $0.00430 per KWH, an increase of $0.00032 per KWH from the NPAC currently in effect (Exh. BE-1, at 14).

As defined in the 1989 Settlement, the NPAC is calculated as:

NPAC = [(POUT x PRAT) + SALP + PIA]/KWH, where

POUT = one-third of the Company's retail share of the KWHs of net power generated at Pilgrim during the performance year[9] during which the NPAC will be in effect;

PRAT = the Pilgrim Cent-Per-KWH Rate established under the 1989 Settlement;

SALP = a Systematic Assessment of Licensee Performance Adjustment;

PIA = a Performance Indicator Adjustment; and

KWH = the estimated number of KWHs to be sold by BECo under rates subject to the Department's jurisdiction during the applicable performance year (1989 Settlement at 9-11).

The product of the POUT multiplied by the PRAT, referred to by the Company as the Capacity Factor Adjustment ("CFA"), for the twelve-month period from November 1, 1993 to October 31, 1994 is $52,885,459 (Exh. BE-4, at 3). The CFA is based on a forecasted 81 percent Pilgrim annual capacity factor ("CF") for the 1993-1994 performance year (id.).

The SALP Adjustment is based on Pilgrim's average SALP score issued by the U.S. Nuclear Regulatory Commission ("NRC") (1989 Settlement at 9). The NRC issued its most recent SALP evaluation on May 21, 1993. The average SALP score for Pilgrim in this report was 1.43 (Exh. BE-4, at 3). The 1989 Settlement provides that for each one tenth of a point that the SALP score is less than 1.6, $500,000 will be added to the NPAC costs to be recovered over the remainder of the performance year (1989 Settlement at 9-11); thus, an increase of $50,000 will be made for each hundredth of a point by which the SALP score is

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9 The term "performance year" shall refer to any of the eleven consecutive twelve-month periods beginning November 1, 1989 (1989 Settlement at 9-11).

less than 1.6. Since the Company's score is 1.43, seventeen hundredths of a point less than 1.6, the Company has included a positive adjustment of $850,000 ($50,000 x 17) in the calculation of the NPAC (Exh. BE-4, at 4).

The PIA contains five individual measures reflecting performance at Pilgrim: (a) Automatic Scrams While Critical; (b) Safety System Failures; (c) Safety System Actuations; (d) Collective Radiation Exposure; and (e) Maintenance Backlog Greater Than Three Months Old (1989 Settlement at 9-11). The PIA is based on Pilgrim's performance relative to the industry.

For the purposes of calculating the performance adjustment charge, the Company estimated that Pilgrim's performance on each of the five indicators will fall within the neutral zone (Exh. 4, at 6). Accordingly, the Company forecasts the Performance Indicator Adjustments for the current period to be zero (id.).

According to the terms of the 1989 Settlement, the PAC and the NPAC may be calculated using estimates of these performance factors (1989 Settlement at 7, 11). The 1989 Settlement also provides that the Company shall reconcile any estimates used in calculating a quarterly PAC or NPAC when final information concerning the performance factor values becomes available (id.). The NPAC may change on a quarterly basis because the Company's forecast of retail KWH sales has changed or because the Company has under- or overrecovered revenues from the previous quarter. The Performance Adjustment Charge and each of its components are subject to reconciliation at the conclusion of each twelve-month period.

D. FOSSIL GENERATION PERFORMANCE ADJUSTMENT CHARGE

The FGAC is comprised of two parts: (1) an Equivalent Availability Factor ("EAF") Incentive; and (2) a Heat Rate Incentive (1992 Settlement at 4-6).

The EAF Incentive is based on the weighted average annual EAF for the Company's fossil units -- Mystic Units 4, 5, 6, and 7, New Boston Units 1 and 2, and the Company's combustion-turbine units -- where weighing is a function of unit capacity (id. at 4). The EAF neutral zone is set at 76 percent to 84 percent. For each percentage point that the EAF falls below 76 percent for any performance year, the EAF Incentive will be a negative adjustment of $500,000. For each percentage point that the EAF is above 84 percent for any performance year, the EAF Incentive will be a positive adjustment of $500,000. The EAF may not exceed $3 million, positive or negative, for any performance year (id. at 4-5).

The Heat Rate Incentive applies to the annual average heat rate at the Company's Mystic Unit 7 (id. at 5-6). The specific heat rate goal varies based on the capacity factor achieved at Mystic Unit 7. For any performance year, the Heat Rate Incentive will be a positive adjustment of $7,500 for each British Thermal Unit ("BTU") per KWH that Mystic Unit 7's annual average heat rate drops below the neutral zone. The Heat Rate Incentive will be a negative adjustment of $7,500 for each BTU per KWH that the heat rate exceeds the neutral zone for any performance year (id.).

For the forecast period, the Company anticipates that its performance in each of these areas will fall within the neutral zone. Accordingly, the Company has proposed no adjustment through the FGAC (Exh. BE-5, at 1-3).

III. QUALIFYING FACILITIES

Pursuant to the Department's rules in 220 C.M.R. §§ 8.00 et seq., rates to be paid to QFs for energy are set with the same frequency as the fuel charge. A QF is a small power producer or cogenerator that meets the criteria established by the FERC in 18 C.F.R. § 292.203(a) and adopted by the Department in 220 C.M.R. § 8.02.

Pursuant to the governing regulations, the Company is required to calculate short-run energy purchase rates on a time-of-supply basis for two rating periods: peak and off-peak. In addition, the Company is required to calculate a non-time-differentiated rate, i.e., a total period rate, which is a weighted average of the time-of-supply rates, where the weighing is a function of the number of hours in each rating period. See 220 C.M.R. § 8.04(4)(b).

In Exhibit BE-6, the Company has proposed the following standard rates to be paid to QFs during February, March, and April 1994:

Energy Rates By Voltage Level (Dollars/KWH)

Voltage Level	Peak	Off-Peak	Total
115 KV	0.02149	0.01708	0.01883
14 KV	0.02185	0.01734	0.01913
4 KV	0.02199	0.01744	0.01924
Secondary	0.02244	0.01775	0.01960

Short-Run Capacity Rates

Voltage Level	Short-Run Capacity Rate
115 KV	0.02896 dollars/KWH
14 KV	0.02977 dollars/KWH
4 KV	0.03021 dollars/KWH
Secondary	0.03117 dollars/KWH

IV. FINDINGS

Based on the record in this case, the Department finds:

1. that the fuel charge to be applied to Company bills issued pursuant to meter readings for the billing months of February, March, and April 1994 shall be $0.03050 per KWH. The fuel charge shall be comprised of a fuel cost component calculated as shown in Table 1 attached to this Order, and a New Performance Adjustment Charge calculated as shown in Table 2 attached to this Order;

2. that the QF power purchase rates for February, March, and April 1994 shall be the rates set forth in Section III of this Order;

V. ORDER

Accordingly, after due notice, public hearing, and consideration, it is

ORDERED: That Boston Edison Company is authorized to put into effect a quarterly fuel charge of $0.03050 per kilowatthour as set forth in Section IV, Finding 1, of this Order for bills issued pursuant to meter readings in the billing months February, March, and April 1994, subject to refund; and it is

FURTHER ORDERED: That the fuel charge approved herein shall apply to kilowatthours sold to the Company's customers subject to the jurisdiction of the Department and shall be itemized separately on all such customers' electric bills; and it is

FURTHER ORDERED: That the Company's Qualifying Facility power purchase rates for the billing months of February, March, and April 1994 shall be those stated in Section III and found to be proper in Section IV of this Order; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall notify all intervenors and their respective counsel from the Company's prior two fuel charge proceedings that it is proposing an adjustment to its fuel charge, and shall also notify these persons of the date scheduled for the hearing on the proposed fuel charge at least ten days in advance of the hearing; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall provide all intervenors and their respective counsel from the prior two fuel charge proceedings with a copy of its fuel charge filing, in hand or by facsimile, on the same day it is filed with the Department; and it is

FURTHER ORDERED: That, pursuant to G.L. c. 164, § 94G(a) and (b), the fuel costs allowed by this Order are subject to such disallowance as the Department may determine in any subsequent investigation of the Company's performance period that includes the quarter applicable to the present charge; and it is

FURTHER ORDERED: That the fuel charge shall appear as a separate item on all customers' electric bills and shall be referenced with a footnote that will identify each customer's fuel-cost component and will explain that the fuel charge also includes the New Performance Adjustment Charge.

By Order of the Department,